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MARTIN & FERRARO, LLP

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FACSIMILE TRANSMITTAL

TO:

Name: Mail Stop AMENDMENT
Group Art Unit 3738 / Examiner David H. Willse

Firm: U.S. Patent & Trademark Office

Fax No.: 571-273-8300

Subject: U.S. Patent Application No. 10/825,522

Gary K. Michelson

Filed: April 15, 2004

METHOD FOR INSERTING NESTED

INTERBODY SPINAL FUSION IMPLANTS

Attorney Docket No. 101.0069-02000

Customer No. 22882

Confirmation No.: 8146

FROM:

Name: Amedeo F. Ferraro, Esq.

Phone No.: 310-286-9800

No. of Pages (including this): 16

Date: June 5, 2009

Confirmation Copy to Follow: NO

Message:

CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that the attached Transmittal Form (in duplicate; total amount of \$180.00 to cover the IDS fee is to be charged to Deposit Account No. 50-3726), Amendment, and Information Disclosure Statement Under 37 C.F.R. § 1.97(c) with Form PTO/SB/08 are being facsimile transmitted to the U.S. Patent and Trademark Office on June 5, 2009.



David M. Kogan

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FORM PTO-1083

Attorney Docket No. 101.0069-02000
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re application of:

Gary K. Michelson

Serial No: 10/825,522

Filed: April 15, 2004

For: METHOD FOR INSERTING NESTED
INTERBODY SPINAL FUSION IMPLANTS

Confirmation No.: 8146

Art Unit: 3738

Examiner: David H. Willse

Mail Stop AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Transmitted herewith is an Amendment in reply to the Office Action dated March 5, 2009 in the above-identified application.

- ☐ No additional fee is required.
- ☐ Applicant hereby requests a ***-month extension of time to respond to the above office action.
- ☒ An Information Disclosure Statement Under 37 C.F.R. § 1.97(c) with Form PTO/SB/08 is enclosed.

The fee has been calculated as shown below:

| | (Col. 1) CLAIMS REMAINING AFTER AMENDMENT | | (Col. 2) HIGHEST NUMBER PREVIOUSLY PAID FOR | (Col. 3) PRESENT EXTRA* | LG/SM \$ ENTITY FEE | ADD'L FEE DUE |
|---|---|---|---|-------------------------------|--|------------------|
| TOTAL CLAIMS FEE | 15 | - | 20 ** | 0 | LG=\$52 SM=\$26 | \$52 \$ 0 |
| INDEPENDENT CLAIMS FEE | 3 | - | 3 *** | 0 | LG=\$220 SM=\$110 | \$220 \$ 0 |
| FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIMS | | | | | LARGE ENTITY FEE = \$390 SMALL ENTITY FEE = \$195 | \$ 0 |
| TOTAL | | | | | | \$ 0 |

* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.

** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, write "20" in this space.

*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, write "3" in this space. The "Highest Number Previously Paid For" (Total or Independent) is the highest number found from the equivalent box on Col. 1 of a prior amendment or the number of claims originally filed.

- ☒ The total amount of \$180.00 to cover the IDS fee is to be charged to Deposit Account No. 50-3726.
- ☒ The Commissioner is hereby authorized to charge any deficiencies of fees associated with this communication or credit any overpayment to Deposit Account No. 50-3726. **A copy of this sheet is enclosed.**
- ☒ Any filing fees under 37 C.F.R. § 1.16 for the presentation of extra claims
- ☒ Any patent application processing fees under 37 C.F.R. § 1.17

Respectfully submitted,

MARTIN & FERRARO, LLP

Date: June 5, 2009

By: 

Amedeo F. Ferraro

Registration No. 37,129

1557 Lake O'Plines Street, NE
Hartville, Ohio 44632
Telephone: (310) 286-9800
Facsimile: (310) 286-2795

FORM PTO-1083

Attorney Docket No. 101.0069-02000
Customer No. 22882

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In re application of:

Gary K. Michelson

Serial No: 10/825,522

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The fee has been calculated as shown below:

| | (Col. 1) CLAIMS REMAINING AFTER AMENDMENT | | (Col. 2) HIGHEST NUMBER PREVIOUSLY PAID FOR | (Col. 3) PRESENT EXTRA* | LG/SM \$ ENTITY FEE | ADD'L FEE DUE |
|---|---|---|---|-------------------------------|--|------------------|
| TOTAL CLAIMS FEE | 15 | - | 20** | 0 | LG=\$52 SM=\$28 | \$ 0 |
| INDEPENDENT CLAIMS FEE | 3 | - | 3*** | 0 | LG=\$220 SM=\$110 | \$ 0 |
| FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIMS | | | | | LARGE ENTITY FEE = \$380 SMALL ENTITY FEE = \$185 | \$ 0 |
| TOTAL | | | | | | \$ 0 |

* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.

** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, write "20" in this space.

*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, write "3" in this space. The "Highest Number Previously Paid For" (Total or Independent) is the highest number found from the equivalent box on Col. 1 of a prior amendment or the number of claims originally filed.

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Respectfully submitted,

MARTIN & FERRARO, LLP

Date: June 5, 2009

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Hartsville, Ohio 44632
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PATENT
Attorney Docket No. 101.0069-02000
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| Gary K. Michelson |) | |
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| Filed: April 15, 2004 |) | Examiner: David H. Willse |
| For: METHOD FOR INSERTING |) | |
| NESTED INTERBODY SPINAL |) | |
| FUSION IMPLANTS |) | |

Mail Stop AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(c)

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(c), Applicant brings to the attention of the Examiner a documents listed on the attached PTO/SB/08. This Information Disclosure Statement is being filed after the events recited in Section 1.97(b) but, to the undersigned's knowledge, before the mailing date of either a Final Action or a Notice of Allowance. Under the provisions of 37 C.F.R. § 1.97(c), the fee of \$180.00 as specified by Section 1.17(p) is to be charged to Deposit Account No. 50-3726.

Applicant respectfully requests that the Examiner consider the listed documents and indicate that they were considered by making appropriate notations on the attached form.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the listed documents are material or constitute "prior art." If the Examiner applies any of the documents as prior art against any claim in the application and applicant determines that the cited documents do not constitute "prior art" under United States law, applicant reserves the right to present to the office the relevant facts and law regarding the appropriate status of such documents.

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JUN 05 2009

Applicant further reserves the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents; should one or more of the documents be applied against the claims of the present application.

If there is any fee due in connection with the filing of this Statement, please charge the fee to our Deposit Account No. 50-3726.

Respectfully submitted,

MARTIN & FERRARO, LLP

Date: June 5, 2009

By: 

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Registration No. 37,129

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